

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FRANCISCO BAUTISTA,

Plaintiff,

-against-

VENTURE 2275 LLC, et al.,

Defendants.

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19-CV-916 (AJN) (BCM)

ORDER

BARBARA MOSES, United States Magistrate Judge.

After numerous extensions, fact discovery in this action concluded on November 29, 2019 (Dkt. No. 38), with one exception: by Order dated December 11, 2019 (Dkt. No. 55), the Hon. Alison J. Nathan, United States District Judge, authorized plaintiff to depose defendants' accountant for 30 minutes at defendants' expense (primarily in order to question him or her about defendants' amended tax returns served on plaintiff's counsel on December 1, 2019). (*Id.*) In addition, Judge Nathan directed plaintiff to serve written questions on defendants' accountant and directed the accountant to provide answers to those questions "in advance of the January 15, 2020 settlement conference before Judge Moses" (*id.*), unless defendants withdrew their reliance on the amended tax returns. The deadline for summary judgment motions is March 31, 2020. (*Id.*)

The settlement conference did not take place on January 15, 2020. Plaintiff's counsel filed a letter-motion on January 14, 2020 (Dkt. No. 60), stating that plaintiff was unable to attend the conference because he was in the Dominican Republic, "due to a medical emergency regarding his brother who was hospitalized." By Order dated January 14, 2020 (Dkt. No. 61), I adjourned the settlement conference *sine die*, and instead scheduled a telephonic settlement conference on January 15, with counsel only, to "determine whether and when to reschedule the settlement conference." (*Id.*)

During the telephonic settlement conference, plaintiff's counsel revealed that, despite the passage of 35 days since Judge Nathan's December 11 Order, he had not served (or even drafted) his written questions for defendants' accountant. He attributed this failure to having recently concluded a vacation in the Caucasus Mountains of Georgia, during which he had a poor internet connection.¹

For the reasons discussed during the telephonic conference, it is hereby ORDERED that:

1. Remaining Discovery

- a. Plaintiff shall serve his written questions on defendants' accountant, as authorized by Judge Nathan, no later than **January 16, 2020**.
- b. Defendants' accountant shall provide written answers no later than **February 6, 2020**.
- c. Plaintiff shall depose defendants' accountant for 30 minutes at defendants' expense, as authorized by Judge Nathan, no later than **February 20, 2020**.

2. Rescheduled Settlement Conference

- a. Judge Moses will hold a settlement conference on **March 2, 2020, at 2:15 p.m.** in Courtroom 20A, 500 Pearl Street, New York, NY 10007.
- b. All other provisions of the Court's November 14, 2019 Order Scheduling Settlement Conference (Nov. 14 Scheduling Order) (Dkt. No. 49) remain in effect. In particular, the Court requires that the parties conduct at least one good-faith settlement discussion, in person or by telephone, and that each party convey to each opposing party at least one good-faith settlement demand or offer, in advance of the deadline, set forth below, for submitting confidential settlement letters. **Past settlement negotiations may not be relied upon to satisfy this requirement.**
- c. No later than one week before the conference (*i.e.*, **February 24, 2020**), each party shall (i) submit an updated confidential settlement letter to chambers by email, in compliance with paragraph 3 of the Nov. 14 Scheduling Order, and (ii) submit to chambers by email and serve on all opposing parties updated Acknowledgment Form(s), in compliance with paragraph 4 of the Nov. 14 Scheduling Order.

¹ This trip did not prohibit plaintiff's counsel from submitting his pre-settlement conference submissions, albeit one day late, on January 9, 2020, while "currently on vacation."

Dated: New York, New York
January 16, 2020

SO ORDERED.



BARBARA MOSES
United States Magistrate Judge